

REMARKS

Reconsideration of this application is requested. Claims 1-6, 8-11 and 14-26 will be active in the application subsequent to entry of this amendment.

The specification has been amended to replace the commas used in percentages and other values with a decimal as is customary in this country. A similar change has been made to claim 9. These changes are responsive to the examiner's comments on page 2, third paragraph of text directed towards claim 9. The claims have been amended in order to more particularly point out and distinctly claim that which applicants regard as their invention, to further describe and characterize the invention and to further distinguish from the cited prior art.

In overview, the subject matter of claim 7 has been incorporated into claim 1, claim 9 corrected to attend to the decimal/comma issue, claim 12 has been withdrawn and claim 13 has been written in independent form and now appears as new claim 16. In addition, various dependent claims have been added from this new independent claim. Claims 14 and 15 have been adjusted in their dependency to depend from the new independent method claim. It is respectfully submitted that the new and amended claims presented above are compliant with 35 U.S.C. 112, second paragraph and address the issues raised on page 2 of the Official Action. Favorable consideration is requested.

Applicant notes with appreciation the examiner's indication that claims 4-6 are free of the prior art of record, however applicant also submits that the claims as above amended are also free of the prior art, as explained in more detail below.

Original claims 1-3 and 7-12 are rejected as allegedly being anticipated by Yatka et al. Applicants respectfully traverse this rejection.

The independent claims have been amended to specify an additional feature of the present invention which, unlike chewing gums, is in powder form. Basis for this appears in original claim 7. As chewing gums are not powders the claims as above amended define novel subject matter.

In the final passage of the statement in support of rejection on page 3, first full paragraph, last sentence of the Action the examiner discusses "apparent density" arguing

that it is "an inherent feature" of the claimed product and thus it is assumed to be identical to that of the Yotka et al compositions. This is not correct.

The apparent density of the claimed compositions is the result of a granulation process which can be carried out according to methods known in the art (see for instance page 4, last paragraph, of the present application) and which is not carried out by Yotka. Without granulation, the present composition would have a different apparent density.

Yotka does not provide any indication that a powder composition as the present one would be suitable to edulcorate cold and hot drinks such as coffee, espresso coffee and chocolate without presenting gelating and/or insolubility phenomena (see the specification at the top of page 2 of the specification). In fact, the problem solved by Yotka is that of stabilizing aspartame and has nothing to do with that solved by the present invention.


For the above reasons it is respectfully submitted that the claims define inventive subject matter. Reconsideration and allowance are solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version With Markings To Show Changes Made.**"

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE SPECIFICATION**

The paragraph beginning at page 4, line 7:

The synthetic sweetener is normally present in amounts of [0,5-5] 0.5-5 % of the weight of said non gelating alimentary fibre whereas the natural sweetener is present in amounts of 1-20% of the weight of said non gelating alimentary fibre.

The paragraph beginning at page 4, line 14:

The composition according to the present invention can be obtained from alimentary fibres having the following technical characteristics:

- particle size distribution: 80% (by weight) between 20 to 130  $\mu$
- wettability: 1 second (maximum)
- dry matter content: 95% by weight (maximum)
- ash[es] content 0.1% by weight (minimum)

Substitute the following for pages 5, 6 and 7

Example 1

Inulin	[56.76%] <u>56.76%</u>
Sodium ciclammate	[8.000%] <u>8.000%</u>
Acesulfame K	[0.320%] <u>0.320%</u>
Neoesperidine	[0.012%] <u>0.012%</u>
Vanilla aroma in powder	[0.280%] <u>0.280%</u>
Sorbitol	[4.028%] <u>4.028%</u>
Acacia fibre	[30.600%] <u>30.600%</u>

Apparent density 437 (g/l)

Granulometry

> 800 µm	[0.9%] <u>0.9%</u>
400 - 800µm	[11.2%] <u>11.2%</u>
200 - 400µm	[38.3%] <u>38.3%</u>
100 - 200 µm	[37.1%] <u>37.1%</u>
< 100 µm	[12.5%] <u>12.5%</u>

%= weight percentage

Example 2

Inulin	[86.35%] <u>86.35%</u>
Sodium ciclammate	[13.00%] <u>13.00%</u>
Acesulfame K	[0.58%] <u>0.58%</u>
Neoesperidine	[0.02%] <u>0.02%</u>
Vanilla aroma in powder	[0.05%] <u>0.05%</u>

Apparent density 465 (g/l)

Granulometry

> 800 µm	[0.5%] <u>0.5%</u>
400 - 800µm	12%
200 - 400µm	43%
100 - 200 µm	35%
< 100 µm	[9.5%] <u>9.5%</u>

%= weight percentage.

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Example 3

Inulin	[83,334%] <u>83,334%</u>
Sodium ciclammate	[15,640%] <u>15,640%</u>
Acesulfame K	[0,670%] <u>0,670%</u>
Neoesperidine	[0,026%] <u>0,026%</u>
Vanilla aroma in powder	[0,330%] <u>0,330%</u>

Apparent density 510 (g/l)

Granulometry

> 800 µm	[0,7%] <u>0,7%</u>
400 - 800µm	[11,7%] <u>11,7%</u>
200 - 400µm	[35,8%] <u>35,8%</u>
100 - 200 µm	[38%] <u>38%</u>
< 100 µm	[13,8%] <u>13,8%</u>

%= weight percentage.

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Example 4

Inulin	[93,35] <u>93.35</u>
Fructose	[3,00] <u>3.00</u>
Sodium saccharine	[3,00] <u>3.00</u>
Acesulfame K	[0,50] <u>0.50</u>
Neoesperidine	[0,05] <u>0.05</u>
Vanilla aroma in powder	[0,10] <u>0.10</u>

Apparent density 450 +/-50 (g/l)

Granulometry

> 800 µm	[0,7%] <u>0.7%</u>
400 - 800µm	[11,2%] <u>11.2%</u>
200 - 400µm	39%
100 - 200 µm	35%
< 100 µm	[14,1%] <u>14.1%</u>

%= weight percentage.

Example 5

Inulin	0.50 g
Chitosan	0.275 g
Aspartame	0.020 g
natural flavour of vanilla	0.005 g

The compositions disclosed in examples 1 to 5 have been used to sweeten hot espresso coffee, hot and cold coffee and hot chocolate; the compositions have been used in amounts ranging from 1 to 10% by weight of the above mentioned drinks and have perfectly dissolved upon stirring.

**IN THE CLAIMS**

1. (Amended) An edulcorating soluble composition in the form of a powder containing from 50 to 98% by weight of at least a non gelating alimentary fibre and from 0.2 to 50% by weight of at least one sweetener, wherein said composition has an apparent density of from 400 to 600 g/l.

9. (Amended) A composition according to claim 8 wherein said at least one synthetic sweetener is present in amounts of [0,5-5 %] 0.5 to 5% of the weight of said non gelating alimentary fibre.

14. (Amended) A method according to claim [13] 16 wherein said effective amount is from 1 to 10% by weight of the drink.

15. (Amended) A method according to claim [13] 16 wherein said cold or hot drink is coffeee, expresso coffee or chocolate.